

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MYCHAL THOMAS DAMON,

Defendant.

Cause No. CR-19-45-GF-BMM

ORDER

The United States has renewed its motion in limine seeking a ruling on the admissibility of the polygraph examination as an operative fact. (Doc. 94). The United States acknowledges that the parties' agreement concerning the recording and the cautionary instruction renders moot a portion of the government's motion in limine. The United States asserts that the Court did not rule on the other part of its motion—whether the government can reference or elicit testimony regarding “polygraph” or “polygraph examination.”

The Court reviewed the transcript of the hearing and provides the following clarification and instructions. The Court directs the parties not to reference “polygraph” or “polygraph examination” during testimony, unless the Court determines that the door to such testimony has been opened. A party must request

a sidebar before proceeding to ask any questions referencing “polygraph” or “polygraph examination.” The parties should instruct all of their witnesses accordingly.

The Court instructs the parties to attempt to agree to the particular phrase that could be used in place of “polygraph examination.” The Court suggested “special investigative technique” at the hearing. The Court will leave it to the parties to resolve at this point. Finally, the Court directs the parties to be prepared to discuss the issue at pretrial conference. If the parties cannot agree on a particular phrase, the Court will advise the parties as to the particular phrase to be used at the pretrial conference.

The government is further directed to not play the portion of the recording that references “polygraph” or “polygraph examination.”

IT IS ORDERED that the United States’s Renewed Motion in Limine (Doc. 94) is **DENIED**.

DATED this 6th day of February, 2020.



Brian Morris
United States District Court Judge